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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
BELIVEAU, SCOTT E

ART UNIT	PAPER NUMBER
2614	

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
   Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>*13 September 2004*</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>*93-120*</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>*93-120*</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Priority

1.   Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged.

However, the provisional application no. 60/170,302 upon which priority is claimed fails to

provide adequate support under 35 U.S.C. 112 for claims 93-120 of this application. While

the "Description of Enhancements for the Scientific-Atlanta Resident Application (SARA)

Release 1.14" reference discloses that the user may utilize selectable color templates for the

IPG (Page 41 – 44), the particular limitations wherein a graphical element, font

characteristic, or color scheme is particular associated with both a "first and second software

module" does not appear to be disclosed or suggested. Furthermore, details pertaining to the

storage of such information in memory sections of the set-top terminal (STT) do not appear

to be disclosed. Accordingly, in light of the provisional application the instant application

will be examined in view of its filling date of 19 October 2000.

2.   With respect to applicant's claim for priority as a continuation-in-part to co-pending

application No. 09/590,488, the common subject matter of the earlier application merely

relates to the overall system architecture of the utilized by the instant application (Figures 1-

2) and illustrates similar GUI screen-shots. The subject matter of the '488 application,

however, does not support the claimed subject matter of the instant application relating to the

customization of the display so as to adopt a common look and feel across multiple

applications. Accordingly, the claims of the instant application shall not receive priority to

the earlier application and shall be examined in view of the filing date (19 October 2000).

Response to Arguments

3.   Applicant's arguments filed 13 September 2004 have been fully considered but they are

not persuasive.

With respect to applicant's remarks pertaining to the rejection of claim 93, in response to

applicant's arguments against the references individually, one cannot show nonobviousness

by attacking references individually where the rejections are based on combinations of

references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck &*

Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant's first argument regarding claim 93 is that the proposed combination does not

teach "storing first and second sets of color specifications in a first section of memory in the

STT, wherein each of the first and second sets of color specifications specify a plurality of

colors", the examiner respectfully disagrees. The Ellis et al. reference as further indicated by

the applicant teaches that the STT contains platform resources including fonts, colors, etc..

The particular storage of "colors" is interpreted as the reference being operable to store a

plurality of "color specifications" in respective implicit memory sections of the set top box.

Given that the platform resources including colors are stored by the platform or set-top-box,

it is unclear as to how such would not be stored in "sections" associated with addressable

locations in memory. The claim does not require that the "sections" be necessarily

associated with different physical memory structures. As to the Crayoft et al. reference being

non-analogous art, the reference clearly indicates that its teachings may be applied to any

type of display system having a user interface (Col 4, Lines 21-34). Given that the Ellis et al.

reference utilizes a set-top-box (STB) (which is essentially a computer that is operable to

receive and process video signals) so as to facilitate a display system having a user interface, it is the examiner's position that the teachings of Craycroft et al. are both analogous and applicable to the Ellis et al. system.

In regards to applicant's second argument that the proposed combination does not teach "enabling the first and second software modules to access the first set of color specifications stored in the first section of memory", the examiner respectfully disagrees. As aforementioned, it is the examiner's position that the Ellis et al. reference discloses the particular usage and storage of "color specifications" so as to particularly facilitate the usage of "first and second software modules" associated with the program guide and plurality of non-program guide applications. As to the reference teaching away, the claim requires that the software modules (such as those associated with the non-program guide applications) merely access the aforementioned color specifications. It is the examiner's understanding that the API facilitates the access to these color specifications (display resources) so as to "enable the first and second software modules to access the first set of color specifications stored in the first section of memory" (further details pertaining to the API can be found in Ellis et al. (US Pat No. 6,665,869) previously of record and further explicitly incorporated by reference (Page 19, Line 16-20)); in order to consistent user interface (ex. same color scheme).

Regarding applicant's third argument that the proposed combination does not teach "outputting the second structured visual presentation including the at least one graphical element . . . ", the examiner respectfully disagrees. As is illustrated in the plurality of Figures of the Ellis et al. reference illustrating the user interface or "structural visual presentation",

the interface is replete with structural "graphical elements". For example, Figure 6 clearly

illustrates the usage of "graphical elements" including boxes, backgrounds, icons, etc. The

Craycroft et al. reference, whose teachings as previously set forth are applicable to any

system having a user interface, also clearly illustrates a "structural visual presentation"

wherein the user is operable to specify a "set of color specifications" associated with a given

theme for the user interface wherein in order to generate the particular theme the system

relies upon the appropriate graphical resources in order to maintain a consistent interface

associated with the theme across applications

With respect to applicant's remarks pertaining to the rejection of claim 112, the

applicant's assumption that the previously presented rejection was directed towards claim

112 versus the indicated claim 105 is correct and the typographical error has subsequently

been corrected.

In regards to applicant's arguments numbered 2-4, regarding the proposed combination

failing to teach particular elements, one cannot show nonobviousness by attacking references

individually where the rejections are based on combinations of references. See *In re Keller*,

642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231

USPQ 375 (Fed. Cir. 1986). Applicant's arguments appear to be substantially similar to

those previously presented with the only difference being that the claim is directed towards

"color scheme specifications" as opposed to "sets of color specifications", as previously set

forth the Ellis et al. reference discloses the particular storage of a plurality of colors" wherein

the system utilizes such to maintain a consistent structured presentation or user interface

across applications. The act of maintaining a consistent user interface is construed as

ensuring the usage of a consistent set of colors, fonts, graphical elements, etc. between

applications. The Craycroft et al. reference, teaches a method wherein a user may select

between a plurality of themes which serve to define the color scheme or "sets of color

specifications" utilized by the user interface. Accordingly, applicant's arguments are

similarly found unpersuasive.

With respect to applicant's remarks pertaining to the rejection of claim 105, in response

to applicant's arguments against the references individually, one cannot show

nonobviousness by attacking references individually where the rejections are based on

combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In

re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In summary applicant's arguments regarding claim 105, appear to be directed upon

similar grounds to those previously addressed whereby the combination fails to teach or

suggest the ability for software modules to access "font characteristic specifications" in

connection with the presentation of multiple structured presentations. As previously set

forth, the Ellis et al. reference discloses the particular usage of an API so as to enable

applications to share resources including stored "font specifications". Accordingly, the Ellis

et al. reference generally discloses the ability for multiple applications to have a consistent

user interface including the utilization of similar font types. The Kamen et al. reference

discloses the ability for a user of a program guide to customize fonts. Given that Ellis

teaches the desirability of maintaining a consistent user interface between program guide and

non-program guide applications, it is the examiner's position that by designating the usage of

a particular font characteristic for the program guide application that it would follow that a

similar font characteristic would propagate to other applications in order to maintain a

consistent user interface between applications. Accordingly, applicant's arguments are not

persuasive.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

5.   This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent

any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to

point out the inventor and invention dates of each claim that was not commonly owned at the

time a later invention was made in order for the examiner to consider the applicability of 35

U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6.   Claims 93-104 and 112-120 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Ellis et al. (WO 00/05889), in view of Craycroft et al. (US Pat No. 6,731,310).

In consideration of claim 93, the Ellis et al. reference discloses a method implemented by

a "set-top terminal (STT)" [40] for the implementation of a common interface between a

"first software module including an executable program configured" [76] and a "second

software module including an executable program" [70] stored in respective "portions" of

"memory" (Page 2, Lines 9-29; Page 21, Lines 12-25). The method involves "storing color

specifications in the STT which specify a plurality of colors" [92] (Page 20, Lines 9-27), a

"first software module" [70] and a "second software module" wherein the software modules

"provide" a first and second "television functionality including a first plurality of structured

visual presentations, wherein each of the first plurality of structured visual presentation

includes a plurality of graphical elements" (Figures 15-17B). The "set-top terminal" [40]

"receives television service data from a server device remotely located from the STT" (Page

15, Lines 6-29) and enables "the first software module to include a portion of the television

service data in the first structured visual presentation" (Figure 16). Furthermore, the API

[72] "enables" and "associates the first and second software modules" with a "color specified

by the first set of color specifications", and "outputs" the "first structured visual

presentation" and the "second structured visual presentation . . . [with] the at least one

graphical element [being] displayed by the first set of color specifications" (Page 19, Line 6-

27; Page 22, Lines 16-28; Page 23, Line 24 – Page 24, Line 5).

As illustrated in Figure 29B, Ellis et al. teaches the usage of a setup menu so as to enable

the user to customize various features of the program guide (Page 48, Lines 21-25). The

reference, however, does not explicitly disclose nor preclude that "responsive to user input" a

user is capable of "associating at least one graphical element with a color specified by the

first set of color specifications" wherein the element is "contained" within the

aforementioned visual presentations. Craycroft et al. discloses a method that may be applied

to any type of display system having a user interface wherein the user is operable to

"associate at least one graphical element" including text, icon, menu bar, etc. "with a color

specified by the first set of color specifications responsive to a user input" (Col 4, Lines 21-67; Col 5, Lines 35-64; Col 20, Line 46 – Col 21, Line 32). For example, a user may specify a particular "theme" associated with particular graphical element colors or "set of color specifications" for certain graphical objects and then associate other graphical objects with different "themes" associated with a "second set of color specifications" (Col 9, Lines 16-33, 49-67). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to provide the user with the ability in conjunction with the Ellis et al. display system with a user interface for the purpose of allowing application user to have additional flexibility and greater control over the appearance of the interface (Craycroft et al.: Col 3, Lines 9-12).

In consideration of claim 112, the Ellis et al. reference discloses a method implemented by a "set-top terminal (STT)" [40] for the implementation of a common interface between a "first software module including an executable program configured" [76] and a "second software module including an executable program" [70] (Page 2, Lines 9-29). The method involves "storing color scheme specifications in the STT" [92] (Page 20, Lines 9-27), a "first software module" [70] and a "second software module" wherein the software modules "provide" a first and second "television functionality including a first plurality of structured visual presentations, wherein each of the first plurality of structured visual presentation includes a plurality of graphical elements" (Figures 15-17B). The "set-top terminal" [40] "receives television service data from a server device remotely located from the STT" (Page 15, Lines 6-29) and via the API [72] "enables", "associates the first and second software modules with a . . . . color scheme specification", and "outputs" the "first structured visual

presentation" and the "second structured visual presentation" wherein both the "first" and

"second plurality of letters are displayed" within the "first" and "second structured visual

presentation according to the font characteristic specifications" in displaying a consistent

user interface between software modules (Page 19, Line 6-27; Page 22, Lines 16-28; Page

23, Line 24 – Page 24, Line 5).

As illustrated in Figure 29B, Ellis et al. teaches the usage of a setup menu so as to enable

the user to customize various features of the program guide (Page 48, Lines 21-25). The

reference, however, does not explicitly disclose nor preclude that "responsive to user input

corresponding to at least one selectable option provided by the STT" that the user may

designate a particular "color scheme specification" to be utilized in conjunction with the

shared applications. Craycroft et al. discloses a method that may be applied to any type of

display system having a user interface wherein a user can "select" a "color scheme

specification among said plurality of color scheme specifications responsive to user input

corresponding to at least one selectable option provided by the STT, the selectable option

corresponding to the selected color scheme specification" (Col 4, Lines 21-67; Col 5, Lines

35-64; Col 20, Line 46 – Col 21, Line 32). Accordingly, it would have been obvious to one

having ordinary skill in the art at the time the invention was made so as to provide the user

with the ability in conjunction with the Ellis et al. display system with a user interface for the

purpose of allowing application user to have additional flexibility and greater control over

the appearance of the interface (Craycroft et al.: Col 3, Lines 9-12).

Claims 94 and 116 are rejected wherein "the first television functionality is a video-on-demand (VOD) service" [76] and the "second television functionality is an interactive program guide (IPG) service" [70].

Claims 95 and 117 are rejected wherein "the first structured visual presentation includes a list of VOD rentals available via the STT" (Figure 16) and the "second structured visual presentation includes a list of broadcast programs available via the STT" (Figure 15).

Claims 97 and 118 are rejected wherein a "structure of the first structure of the first structured visual presentation is substantially different from a structure of the second structured visual presentation". In particular, the "first structured visual presentation" (Figure 16) comprises a 4x1 grid structure while the "second structured visual presentation" comprises a 4x3 grid structure.

Claims 96 and 101 are rejected wherein as illustrated in Figure 17B, wherein a "distinct portion of the first structured visual presentation in which the at least one graphical element is located corresponds to a portion of the second structured visual presentation where the at least one graphical element is located" such that "the second structured visual presentation overlays a portion of the first structured visual presentation" so as to present a combined structure. Claims 102 and 120 are rejected in light of the combined references. As aforementioned, the Craycroft et al. reference discloses that a user theme may specify a "plurality of respective colors" including the background color, the font color, and the highlight color (Col 20, Line 66 – Col 21, Line 1). The Ellis et al. reference teaches the maintenance of a consistent user interface between applications and associated "structured visual presentations". Accordingly taken in combination, "a first plurality of graphical

elements including in the first visual presentation have a plurality of respective colors specified by the selected color specification" and a "second plurality of graphical elements included in the second structured visual presentation have the plurality of respective colors specified by the selected color scheme" such that "each of the first plurality of graphical elements corresponds to one of the second plurality of graphical elements" in order to maintain a consistent appearance between applications. For example, both applications may utilize the same font color.

Claim 98 is rejected wherein "the at least one graphical element is text" comprising a program title.

In consideration of claim 99, the "at least one graphical element comprises an icon" such as a down arrow (ex. Figures 15-17B) that "corresponds to an input key" [130/134] on an input device configured to provide user input to the STT" (Figure 9). The Craycroft et al. reference discloses that particular displayed icons are modifiable in appearance (Col 4, Lines 27-34).

In consideration of claim 100, the Craycroft et al. reference discloses that the user is operable to create/nput" in the form of a particular pattern for the graphical element (Craycroft et al.: Col 21, Lines 5-10).

Claim 104 is rejected wherein the user is operable to "associate a size with the at least one graphical element responsive to user input" (Craycroft et al.: Col 4, Lines 24-41).

Claim 113 is rejected wherein the "first and second structured visual presentations include respective portions having a foreground color specified by the selected color specification" (Craycroft et al.: Col 17, Lines 32-52)

Claim 114 is rejected wherein the "first and second structured visual presentations include respective portions having a background color specified by the selected color specification" (Craycroft et al.: Col 20, Line 66 – Col 21, Line 1).

Claim 115 is rejected wherein the "color scheme specifications specify at least three colors" such as the background color, the font color, and the highlight color (Craycroft et al.: Col 20, Line 66 – Col 21, Line 1).

Claim 119 is rejected wherein as illustrated in Figure 17B, a "portion of the first structured visual presentation in which the first plurality of letters are located corresponds to a portion of the second structured visual presentation where the second plurality of letters are located" such that "the second structured visual presentation overlays a portion of the first structured visual presentation" so as to present a combined structure.

7.   Claims 105-111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (WO 00/05889), in view of Kamen et al. (US Pat No. 6,421,067).

In consideration of claim 105, the Ellis et al. reference discloses a method implemented by a "set-top terminal (STT)" [40] for the implementation of a common interface between a "first software module including an executable program configured" [76] and a "second software module including an executable program" [70] (Page 2, Lines 9-29). The method involves "storing font characteristic specifications in the STT" [92] (Page 20, Lines 9-27), a "first software module" [70] and a "second software module" wherein the software modules "provide" a first and second "television functionality including a first plurality of structured visual presentations, wherein each of the first plurality of structured visual presentation includes a plurality of graphical elements" (Figures 15-17B). The "set-top terminal" [40]

"receives television service data from a server device remotely located from the STT" (Page

15, Lines 6-29) and via the API [72] "enables", "associates the first and second software

modules with the font characteristics", and "outputs" the "first structured visual presentation"

and the "second structured visual presentation" wherein both the "first" and "second plurality

of letters are displayed" within the "first" and "second structured visual presentation

according to the font characteristic specifications" in displaying a consistent user interface

between software modules (Page 19, Line 6-27; Page 22, Lines 16-28; Page 23, Line 24 –

Page 24, Line 5).

        As illustrated in Figure 29B, Ellis et al. teaches the usage of a setup menu so as to enable

the user to customize various features of the program guide (Page 48, Lines 21-25). The

reference, however, does not explicitly disclose nor preclude that "responsive to user input

corresponding to at least one selectable option provided by the STT" that the user may

designate a particular "font characteristic" to be utilized in conjunction with the shared

applications. Kamen et al. discloses that "responsive to user input corresponding to at least

one selectable option provided by the STT, the selectable option corresponding to the font

characteristic specifications" that a different font characteristic may be utilized in

conjunction with the display of an EPG (Kamen et al.: Col 13, Lines 26-41). Accordingly, it

would have been obvious to one having ordinary skill in the art at the time the invention was

made so as to provide the ability for the user to designate a particular font characteristic in

conjunction with the setup of Ellis et al. for the purpose of providing a means by which those

with low visual acuity may read the information in the EPG and other non-program guide

applications (Kamen et al.: Col 2, Lines 55-58).

Claim 106 is rejected wherein "the font characteristic specifications specify at least one of a font size, a font style, a font color, and a font outline characteristic" (Kamen et al.: Col 13, Lines 26-29).

Claim 107 is rejected wherein "the first television functionality is a video-on-demand (VOD) service" [76] and the "second television functionality is an interactive program guide (IPG) service" [70].

Claim 108 is rejected wherein "the first structured visual presentation includes a list of VOD rentals available via the STT" (Figure 16) and the "second structured visual presentation includes a list of broadcast programs available via the STT" (Figure 15).

Claims 109 and 111 are rejected wherein as illustrated in Figure 17B, a "portion of the first structured visual presentation in which the first plurality of letters are located corresponds to a portion of the second structured visual presentation where the second plurality of letters are located" such that "the second structured visual presentation overlays a portion of the first structured visual presentation" so as to present a combined structure.

Claim 110 is rejected wherein a "structure of the first structure of the first structured visual presentation is substantially different from a structure of the second structured visual presentation". In particular, the "first structured visual presentation" (Figure 16) comprises a 4x1 grid structure while the "second structured visual presentation" comprises a 4x3 grid structure.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy

as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until

after the end of the THREE-MONTH shortened statutory period, then the shortened statutory

period will expire on the date the advisory action is mailed, and any extension fee pursuant to

37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Scott Beliveau whose telephone number is 703-305-4907.

The examiner can normally be reached on Monday-Friday from 9:00 a.m. - 6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John W. Miller can be reached on 703-305-4795. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published

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SEB
January 22, 2005
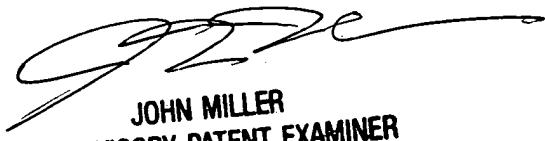
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